

rejection which can be cured through a timely filed Terminal Disclaimer and a rejection of two dependent claims (18 and 19) which applicants have agreed to cancel.

The status of the two referenced applications was brought to the attention of the Examiner through a telephone conversation with the Examiner shortly before the initial due date of November 16, 2002. The Examiner stated that she would review this matter and then get back to the undersigned. In that regard on December 4, 2002, the Examiner and the undersigned attorney had a telephonic interview after which the Examiner provided the undersigned attorney with an Interview Summary setting forth the substance of the telephonic interview.

As pointed out in the Interview Summary:

"Mr. Melser telephoned the examiner to inform her that the present case and the child case (09/973,044) contained only provisional double patenting rejections. Under MPEP 804, the examiner should withdraw the rejection in one of the applications and permit the application to issue as a patent. The examiner should maintain the double patenting rejection in the other application as a "provisional" double patenting rejection which will be converted into a double patenting rejection when the one application issues as a patent. The examiner reviewed both pending applications and updated the search. The updated search revealed a reference that may be used to reject the pending claims in both applications. The examiner telephoned Mr. Melser to inform him of the results of the updated search. Since the present application is under Final Rejection, the examiner requested that Mr. Melser file a request for reconsideration to enable the examiner to withdraw finality of the application and submit a non-final Office action incorporating the newly discovered reference. Mr. Melser requested a faxed copy of this Interview Summary. A faxed copy of this Interview Summary was submitted as requested."

Therefore, as requested by the Examiner, the applicants through the undersigned attorney hereby requests reconsideration of the rejection and further requests that the rejection be withdrawn and that a new non-final Office Action be issued to address the new grounds of rejection discovered by the Examiner as a result of her updated search.

We have concurrently filed herewith a Petition for Extension of Time – One Month and charged this fee to our Deposit Account No. 06-1358. If there any additional fees in connection with the filing of this Petition, the Commissioner is authorized to charge our Deposit Account No. 06-1358 for any such deficiencies.

Should the Examiner have any questions after considering this Request for Reconsideration, she is cordially invited to call the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: 

Allen S. Melser

Registration No. 27,215

Date: December 10, 2002

Customer No. 00,136

400 Seventh Street, N.W.

Washington, D.C. 20004

(202) 638-6666

Attorney Docket No. P66623US1